

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CHARLES GOLBERT, et al.,)	
)	Case No. 1:23-cv-00300
Plaintiff,)	
)	
v.)	
)	Honorable Martha M. Pacold
MARC D. SMITH, et al,)	Magistrate Judge Gabriel A. Fuentes
)	
Defendants.)	
)	

JOINT STATUS REPORT REGARDING DISCOVERY

The parties submit this joint status report regarding discovery pursuant to the Court's June 8, 2023 minute entry [Dkt. 15].

Defendants' Position:

1. Defendants request a stay of discovery pending resolution of Defendants' Motion to Dismiss and To Strike Class Allegations [Dkt. 16]. Because the arguments raised in support of and in opposition to the motion to dismiss will inform the arguments that each party will make regarding a discovery stay, Defendants request that the briefing schedule for the motion to stay follow shortly after briefing on the motion to dismiss has closed. The current briefing schedule for the motion to dismiss contemplates that Plaintiffs will respond by June 27 and that Defendants will reply by July 11 [Dkt. 12]. Defendants propose that they file the motion to stay discovery by July 25; that Plaintiffs respond by August 15; and that Defendants reply by August 29.

2. In its June 8, 2023 Order, the Court directed the parties to file an updated joint status report containing "a proposed briefing schedule for a motion to stay discovery pending

resolution of the motion to dismiss, if such a stay motion is contemplated.” [Dkt. 15]. Rather than abide by the simple directive to submit a proposed briefing schedule, Plaintiffs insist upon including in this joint status report a preview of their opposition to the contemplated motion to stay discovery, including citation to legal authority. Defendants will not respond to plaintiffs’ arguments here, and will instead submit arguments in support of their motion to stay in the filings relating to that motion, all as contemplated by the Court’s June 8 Order.

Plaintiff’s Position:

3. Plaintiffs first filed their complaint in this matter on January 19, 2023. [Dkt. 1.] Defendants sought two extensions of their time to respond, [dkt. 6, 8], before filing their motion to dismiss on June 1, 2023, [dkt. 10]. Plaintiffs have already waited more than four months to begin discovery, and Defendants’ proposed briefing schedule for their motion to stay will only create further unnecessary delay.

4. “The mere filing of a motion to dismiss does not automatically stay discovery.” *See New England Carpenters Health & Welfare Fund v. Abbott Laboratories*, 2013 WL 690613, at *1 (N.D. Ill. Feb. 20, 2013) (citing *SK Hand Tool Corp. v. Dresser Indus.*, 852 F.2d 936, 945 (7th Cir. 1988)). A party seeking to stay discovery must demonstrate good cause for the stay. *Id.* Defendants’ briefing schedule will in effect provide them with a substantial stay of discovery before the Court has an opportunity to determine if one is even warranted: Defendants seek to wait more than 6 weeks before even filing their motion, and more than 11 weeks before the motion to stay is fully briefed.

5. Defendants contend without explanation that the arguments raised in the motion-to-dismiss briefing will inform the arguments that the parties will make in the motion-to-stay briefing, and therefore the motion-to-stay briefing should not commence until after the motion to

dismiss is fully briefed. This contention is without merit and cannot support the serious delay Defendants are seeking. Defendants have already filed their motion to dismiss setting forth all their arguments for why Plaintiffs' case should be dismissed. Whether discovery should be stayed pending resolution of that motion will not be impacted in any way by Plaintiffs' response brief or Defendants' reply.

6. Plaintiffs instead propose that Defendants file their motion to stay by June 26; Plaintiffs file their response by July 10; and Defendants file their reply by July 17.

Respectfully submitted,

/s/ Megan Pierce

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Marc D. Smith, et al.,
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By: /s/ Barbara L. Greenspan
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CERTIFICATE OF SERVICE

The undersigned, an attorney of record, hereby certifies that, on June 15, 2023, she caused to be filed through the Court's CM/ECF system a copy of a Joint Status Report Regarding Discovery. Parties of record may obtain a copy of this filing through the Court's CM/ECF system.

/s/ Barbara L. Greenspan

Barbara L. Greenspan